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Labour Rights of Lecturers in Private Universities in Nigeria

Abstract

This study investigated Nigeria's private university lecturers' welfare and their legal rights. The study adopted a doctrinal approach which enabled a proper examination of the extant laws applicable to a lecturer as an employee and the reviewed laws included: the Constitution of the Federal Republic of Nigeria 1999 (as Amended), Labour Act Cap L1, LFN 2004, Industrial Training Fund Cap 19 LFN 2004 (as Amended), National Health Insurance Scheme Act, Cap N42, LFN 2004, National Housing Fund Act, Cap N45 LFN 2004, Pension Reform Act 2014, Personal Income Tax Act Cap P8 LFN 2004, Trade Dispute Act Cap T8 LFN 2004, Trade Unions Act Cap T14 LFN 2004. The study made a case for lecturers with the private universities in comparison to their counterparts with the public owned universities. The findings showed that there is wanton disregard for the extant provision of the Labour Act in Nigeria amongst the lecturers working with the private universities. Similarly, the study likewise discovered that there is paucity of reported cases regarding enforcement action involving private university lecturers and their employers. The study perceives that the inability of private university lecturers to demand for their rights is because the Nigerian law also allows freedom of contract in upholding and binding employers and employees to their agreements. Recommendations from the study asserted that the lecturers are entitled to same right as every other professional employee in Nigeria. This exposes the lecturers in the private universities to a weak state where despite the existence of the laws protecting their rights, they are unable to leverage on the existing laws to advance their rights.

Keywords: labour law, legal rights, university lecturers, Nigeria

Introduction

The Nigerian employment laws are well diverse with the intention to capture every aspect associated with employee welfare. This spread of statute reflects in different legislation that has provided the framework in which they are explicitly stipulated. Over the years, specific legislation has been enacted to address different issues in the Nigerian employment industry. Notwithstanding, the employment laws still remain; the Labour Act enacted in the 1970s, the Factories Act, the Employees Compensation Act, the Trade Disputes Act and the Trade Unions Act. Yet, there exists disagreement between employers and employees.

Unfortunately, despite this provision of laws, trade dispute between employer and employees has bordered on the premise of unsatisfied welfare packages given to workers. A typical example is reoccurring dispute between the Nigerian government (employer) and the Academic Staff Union of Universities (ASUU) where both parties have experienced several trade disputes which has resulted into disruption of planned academic sessions, diminished the quality of tertiary education in the nation and have

in recent times forced parents to seek alternative options in private universities both locally and internationally.

Interestingly, one wonders why the provision of welfare packages to employees has become a problem for employers, meanwhile, these set of employees are required to put in their very best at workplace (Hosseini, Mahdad & Golparvar, 2013). The most worrisome is the work relationship in the private sector, where workers are out rightly barred from constituting a legitimate union as compared to their contemporaries in the public sector. Such actions are inhuman and unconstitutional, because it is an infringement to the fundamental right of lecturers. Also, the disposition of the government as the first agency enacted by the people to protect their fundamental human right is failing in its duties in providing oversight and requisite enforcement of the extant laws which have been formulated to guarantee the provision of adequate welfare for employees.

It is on this basis that this study has been undertaken to advocate specifically, for lecturers employed in the private universities, with the intention that the recommendations provided will prompt required actions from statutory quarters to intervene in the plight of these set of workers.

Review of concepts

Who is a lecturer?

A lecturer is one who gives an organized lesson aiming to teach something. A lecturer educates university students, plans and directs the study of university students on one or more specific subjects and conducts their research in these areas. A lecturer also writes and delivers lectures, designs and supervises their studies and conducts research on topics that are closely related to their specialty. They also compile and mark essays, examinations and other coursework, provide students with advice on academic subjects, participate in meetings at places of study, schools or departments, and perform administrative tasks. A lecturer can also arrange and organize conferences. Depending on their level of knowledge, they can also work in libraries, laboratories or research centers, and they can offer practical training in practice. They can be used for full-time or part-time work. While full-time university lecturers work more or less on weekdays on campus, part-time faculty can study on campuses only during their teaching.

Interestingly, the Labour Act enacted in 1974, in the bid to explain the relationship between an employer and employee in Nigeria, uses the word "workers" to describe employees and it defines workers in Section 91 of the Act as:

any person who has entered into or works under a contract with an employer, whether the contract is for manual labour or clerical work or is expressed or implied or oral or written, and where it is a contract of service or a contract personally to execute any work or labour.

In order words, the lecturer as an employee of a privately owned institution is in-line with the tenet of Section 91.

Lecturer welfare

Lecturer welfare is an extremely essential factor and that is the reason employer provides workers, statutory and non-statutory benefits along with proper compensation for enhancing their motivation, which may likewise bring more loyalty and trust of

employees towards the organization. Welfare activities do not just provide motivating forces in a money related frame yet in addition by giving them consideration, enhance their abilities, improve their skills, understand their problems, allowances, housing, monitoring working conditions, creation of harmony through infrastructure for health, insurances against disease, accidents and unemployment of their families. Several studies have shown that an increased welfare facility can improve the job satisfaction and exert strong influence on the lecturer's performance (Nasiri, Tabibi & Habibi, 2012).

Lecturer's legal rights

This is enshrined in the labour law, and they are regulations that mediate the relationship between workers, employing entities, trade unions and the government. The basic feature of employment law in virtually every country is that the rights and obligations of the worker and the employer are mediated based on a contract of employment between the two and this has been the practice since the collapse of feudalism (Brown, 2015). The author emphasized that employment laws have a uniform purpose to protect employees' rights and set forth employers' obligations and responsibilities. Also, they have multiple functions, with core functions of providing equal opportunity and pay, employees' physical and mental well-being and safety and workplace diversity.

Employment laws in Nigeria are classified into Individual labour laws and Collective labour laws. While Individual labour laws cover: categories of employees, individual contract of employment, rights and duties, remuneration, working time, annual and maternity leaves etc., Collective labour laws deal with: freedom to form or belong to trade unions, relationship between trade unions and employers or their associations, collective bargaining, industrial actions including strikes and lock outs etc. (Ahmed, Ahmad & Idris, 2014).

Employment laws and the level of compliance by privately owned universities in Nigeria

Lack of legally constituted work relationship

It is unfortunate to mention that most lecturers in privately owned universities are yet to get their employment contract document issued to them by the institution that engage their services despite being engaged for more than three months. Meanwhile, Section 7 of the Labour Act provides that:

Not later than three months after the beginning of a worker's period of employment with an employer, the employer shall give to the worker a written statement specifying the following:

- *The name of the employer or group of employers and where appropriate of the undertaking by which the employee is employed.*
- *The name of the employee, address, position to be occupied, and the date of engagement.*
- *The nature of the employment.*
- *If the contract is for a fixed term, the date when the contract expires.*
- *The appropriate period of notice to be given by the party wishing to terminate the contract.*

- *The rate of wages and method of calculation and the manner and periodicity of payment.*
- *The terms and conditions relating to the hours of work, holiday pay, and conditions for incapacity to work due to sickness, injury, inclusive of provisions of sick pay.*
- *Leave allowance, medical and other special allowances to be accrued.*

Unlawful mode of employment termination

Another salient provision of the Labour Act that most privately owned institutions do not adhere to has to do with the mode of termination of employment relationship. It is clearly stated in Section 11 of the Labour Act provides that the termination of a contract of employment should be by the issuance of notice in writing. It states that either party to a contract of employment may terminate the contract on the expiration of a notice given by him to the other party of his intention to do so. Unfortunately, these set of university terminate the job of a lecturer at will without following due process. Meanwhile, Section 11 stipulated the following procedure to be issued based on the provisions of the law:

- One day, where the contract has continued for three months or less.
- One week, where the contract has continued for more than three months but less than two years.
- Two weeks, where the contract has continued for two years but less than five years.
- One month, where the contract has continued for five years or more.

Inadequate compliance of the reformed Pension Act 2014

Most organisations, especially privately owned tertiary institution, do not comply with the demands stipulated in this act. To some privately owned universities, no pension scheme is being operated, while most of the university that have engaged the services of a registered pension administrator do not remit their part of the contributory pension fund, meanwhile, the administrator constantly withdraw from the lecturers as their salaries are paid for the month. Section 1 of the Act provides that the objectives of the Act include establishing a uniform set of rules, regulations, and standards for the administration and payments of retirement benefits for the public service of the Federal Capital Territory, the public service of the state governments, the public service of the local government councils and the private sector. It also includes making provisions for the smooth operations of the Contributory Pension Scheme. Section 2 of the Act further provides that the private sector employers with fifteen (15) or more employees must establish a Contributory Pension Scheme for the benefit of the employees, wherefrom retirement benefits would be paid to the employees. Section 2(3) of the Act provides:

that notwithstanding the prescribed mandatory minimum threshold stated, private sector employers with less than three (3) employees or self-employed persons are also entitled to voluntarily establish schemes, following guidelines issued by the National Pension Commission.

The Act in Section 4 provides that the minimum rate of contribution payable by the employer is 10% of an employer's monthly remuneration and 8% of an employee's monthly remuneration to be contributed by the employee. The rate of contribution payable may also upon the agreement between the employer and employee be revised upwards from time to time and when such a situation arises, the Commission will be notified of the revision.

Inability to constitute a union

Trade unions in Nigeria and elsewhere represent important institutions through which collective labour relation is practiced. They regulate relations between employers on one hand and employees (through their elected representatives) on the other. Since the two parties to a contract of employment do not operate at arms-length i.e., the employee being the weaker of the parties, the only way through which the interests of the employees can be collectively and adequately protected is through vibrant trade unions which are the umbrella bodies of workers in particular organizations (Kenen, 2020).

Ideally, trade unions exist to foster industrial peace and harmony, the laws relating to trade unions showed that registered trade unions are to be compulsorily recognized by employers and adequately equipped to maintain equilibrium between employers and employees with a view to promoting industrial peace and harmony. But this seems to be a far cry for lecturers in privately owned universities in Nigeria, as such act is highly prohibited.

Meanwhile according to the statutory definition, in Section 1(1) of the Trade Unions Act, Trade Union means:

Any combination of workers or employers, whether temporary or permanent, the purpose of which is to regulate the terms and conditions of employment of workers, whether the combination in question would or would not, apart from this Act, be an unlawful combination by reason of any of its purposes being in restraint of trade, and whether its purposes do or do not include the provision of benefits for its members.

Also, Sub-section 2 of the Act further provides:

The fact that a combination of workers or employers has purposes or powers other than the purpose of regulating the terms and conditions of employment of workers shall not prevent it from being registered under this Act; and accordingly, subject to the provisions of this Act, as to the application of funds for political purposes, a trade union may apply its funds for any lawful purpose for the time being authorized by its rules, including in particular, if so authorized, that of providing benefits for its members.

Labour inspection and enforcement of employment laws

The strength of inspection and enforcement of the Nigerian employment laws is laughable. This is because punitive measures stipulated to correct defaulters as stated in the Factory Act 2004 make mockery of any serious government expecting adequate compliance of its laws designed to protect its citizens who have been gainfully employed. For example, the Factory Act 2004 states that the occupation of a factory without approval is punishable by a fine of 2000 or a 12-month imprisonment or both (Section 3(4)). False entries, false declarations and forgery are subject to a fine of 2000 (Section 72).

Also, where worker dies compensation is valued at 5000. Other crimes not expressly provided in the act (Section 70) are punishable by a fine of 500. The fine for the obstruction of an inspector is another paltry sum valued at 1000 (Section 65(5)). Where accidents occur and are not reported a fine of 1000 is payable (Section 51). The monetary value of these fines does not reflect modern day realities. These fines are too paltry and have no real deterrent effect in the 21st century. These fines can be easily paid over and again as such defeating its purpose in the first place.

Concluding recommendations

In conclusion, the following recommendations can be made:

1. The Nigerian government through the inspection functions of the Ministry of Labour should: (a) secure the enforcement of the legal provisions relating to conditions of work and the protection of workers while engaged in their work; and (b) supply technical information and advice to employers and workers concerning the most effective means of complying with the legal provisions. The government should rigorously enforce the provisions of the existing labour laws prescribing minimum conditions of employment and processes of collective bargaining. In this connection, the provisions of the labour laws relating to the protection of wages, contracts of employment, and terms and conditions of employment should be enforced in order to ensure that workers are not exploited by unscrupulous employers of labour.

2. Laws that do not guaranty the provision of adequately constituted welfare package for the lecturers should be repealed.

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- Sections (3) (4) (61) (65) (70) (72) of the Factories Act, Cap. (F1), Laws of the Federation of Nigeria, 2004.
- Sections (7) (11) (91) of the Labour Act, Cap. (L1), Laws of the Federation of Nigeria, 2004.
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